

Exhibit A

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

2015 OCT 16 PM 12:13

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 

ELVIRA H. XIMENES, et al.,
Plaintiffs,

-vs-

Case No. A-15-CA-855-SS

IN RE: RICARDO PEREZ HERNANDEZ,
Defendant.

ORDER

BE IT REMEMBERED on this date the Court reviewed the file in the above-captioned matter and, thereafter, enters the following:

On September 24, 2015 Daniel Montez filed "Intervanors' [sic] Notice of Removal" and "Intervanors' [sic] Notice of Appeal" by mail in this Court. In his notice of removal, Mr. Montez advised he was removing the case from the Probate Court of Hays County (Cause No. 14-0132-P styled *In Re the Estate of Ricardo Perez Hernandez*). Apparently, Mr. Montez has filed some sort of intervention in the Hays County probate court and is attempting to remove the probate case to this Court and, further, to consolidate three cases involving his petitions for mandamus filed in the Third Court of Appeals of the State of Texas. The petitions for mandamus have now been dismissed, and Mr. Montez has been adjudicated by the state appellate courts as a "vexatious litigant" and is required to obtain permission from the local administrative judge before filing any lawsuit in the State of Texas. The three court of appeals cases filed by Mr. Montez in the Third Court of Appeals all were dismissed by or on August 18, 2015, a month before the notice of removal was filed in this Court.

In addition to seeking consolidation of two cases in the Probate Court of Hays County and three petitions in the Third Court of Appeals, Mr. Montez also seeks contempt of court orders on Elvira Ximenes, the Executrix of the Estate of Ricardo Perez Hernandez, and Hays County Probate Court Judge Updegrave. On October 5, 2015, Mr. Montez filed literally hundreds of pages as his purported record in the probate court. On October 6, 2015, Elvira Ximenes, the Executrix of the Estate of Ricardo Perez Hernandez, filed a motion to remand. Mr. Montez has now filed "Intervenor's [sic] Response in Opposition to Estate's Motion to Remand and Request for Sua Sponte Decision." And here it is.

The United States District Court clearly has no jurisdiction over these cases or parties. It is clear from the pleadings Mr. Montez's causes of action are wholly frivolous and designed simply to harass litigants and delay the judicial process. The only genuine issue in this case is whether the Court of Appeals will hold contempt charges against Mr. Montez for violating its order and filing a lawsuit without the consent of the local administrative judge or the Court of Appeals. However, that is a state function, not one of this Court.

IT IS ORDERED that "Intervenor's [sic] Non Prisoner Pro Se Motion to Become Electronic Filing User" [#2] filed on behalf of Daniel Montez and Juana Perez Hernandez is DENIED.

IT IS ORDERED that "Intervenor's [sic] Motion to Enforce Settlement Agreement, Motion to Declare Tx CPRC Title 2 Chapter 11 Unconstitutional, and Motion to Set" [#7] is DISMISSED.

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IT IS ORDERED that "Intervenor's [sic] Motion for Contempt and for Sanctions Against Robert E. Updegrove, Ronald James Shaw and Elvira H. Ximenes, Motion to Void Trial Court Order, and Motion to Set" [#10] is DISMISSED.

IT IS FURTHER ORDERED that the Motion to Remand [#8] is GRANTED, and this lawsuit is REMANDED to Cause No. 14-0132-P in the Probate Court of Hays County, Texas.

IT IS FURTHER ORDERED Daniel Montez shall not file any lawsuit in the Austin Division of the Western District of Texas without permission of a United States District Judge sitting in the Western District of Texas or the United States Court of Appeals for the Fifth Circuit.

IT IS ORDERED and ADJUDGED that Elvira Ximenes, the Executrix of the Estate of Ricardo Perez Hernandez, do have and recover judgment against Daniel Montes in the sum of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00) in costs and attorneys' fees required for these irresponsible and frivolous pleadings intending to seek to delay a final disposition on the merits in three different jurisdictions and abusing the processes of the Courts.

IT IS FINALLY ORDERED that the Clerk shall remand this case immediately and is authorized to issue a writ of execution on the judgment of costs and attorneys' fees.


UNITED STATES DISTRICT JUDGE
10-16-15